

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

E.K. WADE,

No. C 06-04905 CRB

Plaintiff,

**ORDER RE: MOTION TO DISMISS**

v.

VETERANS AFFAIRS NORTHERN  
CALIFORNIA HEALTHCARE SYSTEM,

Defendant.

Since December of 2005, E.K. Wade has filed twenty-four lawsuits in the Northern District of California.<sup>1</sup> Eight of these lawsuits relate to problems he has experienced at

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<sup>1</sup> See Wade v. Chao, No. 06-cv-5431-MJJ (N.D. Cal. filed Sept. 5, 2006); Wade v. Veterans Affairs N. Cal. Healthcare Sys., No. 06-cv-4905-CRB (N.D. Cal. filed Aug. 15, 2006); Wade v. Chao, No. 06-cv-4829-MJJ (N.D. Cal. filed Aug. 10, 2006); Wade v. United States, No. 06-cv-4828-CRB (N.D. Cal. filed Aug. 10, 2006); Wade v. Am. Fed. of Gov't Employees, No. 06-cv-4751-MEJ (N.D. Cal. filed Aug. 7, 2006); Wade v. United States, No. 06-cv-4726-MJJ (N.D. Cal. filed Aug. 4, 2006); Wade v. Chao, No. 06-cv-4725-MJJ (N.D. Cal. filed Aug. 4, 2006); Wade v. United States, No. 06-cv-4704-WHA (N.D. Cal. filed Aug. 3, 2006); Wade v. United States, No. 06-cv-4593-CRB (N.D. Cal. filed July 28, 2006); Wade v. Lockyer, No. 06-cv-4431-MHP (N.D. Cal. filed July 20, 2006); Wade v. Chao, No. 06-cv-5431-MJJ (N.D. Cal. filed Sept. 5, 2006); Wade v. Veterans Affairs N. Cal. Healthcare Sys., No. 06-cv-2925-CRB (N.D. Cal. filed May 1, 2006); Wade v. Chao, No. 06-cv-2610-MJJ (N.D. Cal. filed Apr. 18, 2006); Wade v. Soc. Sec. Admin., No. 06-cv-2596-SBA (N.D. Cal. filed Apr. 17, 2006); Wade v. Chao, No. 06-cv-2592-MJJ (N.D. Cal. filed Apr. 17, 2006); Wade v. United States, No. 06-cv-2346-CRB (N.D. Cal. filed Apr. 4, 2006); Wade v. Chao, No. 06-cv-2209-MJJ (N.D. Cal. filed Mar. 28, 2006); Wade v. Veterans Affairs N. Cal. Healthcare Sys., No. 06-cv-1963-CRB (N.D. Cal. filed Mar. 15, 2006); Wade v. Chao, No. 06-cv-0710-MJJ (N.D. Cal. filed Feb. 1, 2006); Wade v. Chao, No. 06-cv-0693-MJJ (N.D. Cal. filed Jan. 31, 2006); Wade v. Gonzales, No. 06-cv-0399-PJH (N.D. Cal. filed Jan. 20, 2006); Wade v. Veterans Affairs N. Cal. Healthcare Sys., No. 05-cv-5361-CRB (N.D. Cal. filed Dec. 27, 2005); Wade v. Chao, No. 05-cv-5087-MJJ

1 Veterans Administration hospitals in Martinez and Walnut Creek, California. These eight  
 2 lawsuits variously relate to three discrete episodes: (1) an incident in May of 2005 when  
 3 Wade received a prescription for a drug called Prednisone that apparently caused him  
 4 internal bleeding; (2) an incident in December of 2005 when the VA hospital in Walnut  
 5 Creek refused to provide him with mental health care services, ostensibly because Wade was  
 6 covered under both a VA health care plan and a private health care plan; or (3) another  
 7 incident in December of 2005 when the VA hospital in Walnut Creek refused to fill a  
 8 prescription for Prednisone for him. These eight “hospital cases” were related for collective  
 9 consideration by this Court.

10 This Court has previously dismissed three of the cases (Case Nos. 05-4960, 05-5361,  
 11 and 06-1963) on the basis that Wade failed to exhaust the administrative remedies available  
 12 to him through the Veterans Administration. The Court previously dismissed two cases  
 13 (Case Nos. 06-2925 and 06-4828) for lack of subject matter jurisdiction. In those cases, the  
 14 Court found that the federal government was immune from Wade’s attempt to recover  
 15 damages based on alleged violations of federal law. The Court noted that the only basis for a  
 16 suit seeking damages against the Veterans Administration was the Federal Tort Claims Act,  
 17 and that Wade had failed to identify any state-law basis for his claims.

18 Now pending before the Court is a motion to dismiss this action, Case No. 06-4905.  
 19 This lawsuit, too, seeks damages against the federal government for alleged violations of  
 20 federal law. See Am. Compl. ¶ 10 (asserting a cause of action for the alleged violation of 38  
 21 C.F.R. § 17.38(a)(1)(i-iv)); id. ¶ 11 (asserting a cause of action for the alleged violation of 42  
 22 U.S.C. § 12132). For the reasons stated in the Court’s previous order, the Court lacks  
 23 jurisdiction to adjudicate such claims. F.D.I.C. v. Meyer, 510 U.S. 471, 475 (1994);

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26 (N.D. Cal. filed Dec. 9, 2005); Wade v. Soc. Sec. Admin., No. 05-cv-5086-SBA (N.D. Cal. filed  
 27 Dec. 9, 2005); Wade v. Veterans Affairs N. Cal. Healthcare Sys., No. 05-cv-4960-CRB (N.D.  
 28 Cal. filed Dec. 1, 2005).

1 Love v. United States, 60 F.3d 642, 644 (9th Cir. 1995). Accordingly, the government's  
2 motion to dismiss is GRANTED.

3 **IT IS SO ORDERED.**

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6 Dated: May 11, 2007



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE